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# Shuttle Bus Services

## RFP 12-2029

### **Metro Procurement Services**

600 NE Grand Avenue  
Portland, OR 97232  
503-797-1700

Ken Barton and Mark Williams

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503-736-5235,

### **Procurement Analyst**

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503-797-1648

Notice is hereby given that proposals for RFP 12-2029 Shuttle Bus Services shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on February 10, 2012. It is the sole responsibility of the proposer to ensure that Metro receives the proposal by the specified date and time. All late proposals shall be rejected. Proposers shall review all instructions and contract terms and condition.

# Request for Proposals (RFP 12-2029)

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## I. INTRODUCTION

Metro, organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is requesting proposals for Shuttle Bus Services. Proposals will be due as indicated on the RFP cover page.

Details concerning the project and proposal are contained in this document.

## II. BACKGROUND/HISTORY OF PROJECT

Metro has needs for shuttle buses for scheduled events and on-call services. The services are most often for parking lot shuttle services at the Oregon Zoo (Zoo) and Portland Expo Center (Expo). In particular, the Expo is hosting the Cirque Du Soleil event in spring of 2012 and the Zoo has several events throughout the year that require shuttle services. The services requested contract are for "on-call" shuttle services for Metro as an agency, but it is anticipated that the bulk of the work will be for the two situations described herein. The selected contractor shall furnish all professional services, labor, materials, equipment, safety equipment, licenses, and permits necessary to render services as specified in Section III, Proposed Scope of Work/Schedule.

It is anticipated that the term of the contract(s) will be March 2012 through February 2014, with the option of three (3) one-year extensions at Metro's discretion. Metro also reserves the right to award multiple contracts if it is deemed to be in the best interest of Metro.

## III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms to perform the following services:

Provide shuttle services for Metro using bus-type transportation. Because of the variety of events and clientele, Metro will use a range of vehicles from school bus-type vehicles to coach-type vehicles.

Provide the necessary fleet of shuttle buses and all personnel necessary to operate the off-site parking shuttle service before, during and after events and on-call services. Services include, but are not limited to: the ground personnel, supervision, permits and supplies necessary to assist in loading and unloading passengers as well as bus movement and operations at each end of the shuttle trip. The on-site supervisor shall act as the dispatcher, trouble-shooter and good-will ambassador.

Vehicles shall, at minimum:

- meet ADA requirements for at least one lift bus
- be clean, fueled and ready for service prior to arriving at Metro owned or controlled property
- hold a minimum of 15 passengers, plus driver
- be no more than 10 years old
- have a working paging / announcement / music system

Coach vehicles shall also have a working air-conditioning system.

At least one or two wheelchair accessible vehicles with wheelchair lift equipment shall be available for any or all scheduled events, depending on the anticipated attendance numbers.

Drivers shall:

- receive instruction from the Metro facility designee while on Metro owned or controlled property
- be fully qualified under the laws of the State of Oregon and maintain current Commercial drivers' license with any necessary endorsements for appropriate vehicle class

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- pass a background security check, if required
- be able to read, write, speak and understand English
- maintain a professional image, be neatly dressed, and be courteous and helpful to all passengers employing best practices of customer service

Contractor(s) shall:

- demonstrate that an employee drug-testing program is in place
- be responsible for timely bus replacement in case of breakdown
- comply with all federal, state, and local laws, safety requirements and regulations
- have the sole right to hire, suspend, discipline, or discharge Contractor's personnel. However, any employee of Contractor who, in the opinion Metro Personnel, is performing unsatisfactory, or has incidents of misconduct that occur, under the Contract, shall be removed from the performance of required services immediately upon the written or oral request of the Metro Project Manager(s)
- have the ability to provide bus(es) at 24-hour notice in case of a change in schedule
- allow for flexibility if there is a need for bus(es) to be extended beyond 1 hour after closing

Assessment of Cancellation Charges, if necessary:

- A two (2) hour charge per bus may be assessed if buses are cancelled after arrival
- No cancellation charge is to be assessed if buses are cancelled two (2) hours prior to the scheduled arrival time
- If buses are not cancelled and are not used, a minimum of two (2) hours standby time will be authorized
- If buses are held past the two hour standby time without being activated, the standard activation fee will be paid

### Required Services

#### **Portland Expo Center:**

Metro requires shuttle bus services for the Cirque du Soleil event scheduled for spring 2012 at the Expo. Contractor shall provide shuttle bus, driver and on site supervisor services for the duration of the Cirque du Soleil engagement. Vehicles shall be appropriate for clients arriving for high-caliber performances. This event is renting a portion of the Expo's parking and there are other events scheduled at the Expo during the show's run. Expo anticipates using the Portland International Raceway and Portland Meadows as auxiliary lots as well as additional nearby lots as necessary. The need for overflow parking and shuttle services is anticipated for the following schedule:

Tentative schedule:

School Buses:	March 10 <sup>th</sup>	Noon – 8pm
	16 <sup>th</sup>	2pm – 10pm
	17 <sup>th</sup>	10am -10pm
	18 <sup>th</sup>	10am - 8pm
	24 <sup>th</sup>	11am – 10pm
	25 <sup>th</sup>	11am – 6pm

Coaches:	April 10 – 13	6:30pm -11:30pm
	14	2:30pm – 11:30 pm
	21	2:30pm – 7:30pm
	28	11:30am – 11:30pm
	29	11am – 5pm

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The loading and unloading sites should be free of debris and Contractor shall notify Metro Project Manager(s) if cleaning services are needed. Contractor shall attend and participate in Metro meetings related to the event, as requested, and de-brief on performance of the traffic and parking plans and modifications to those plans as necessary.

Contractor shall provide not less than the following specific services, but not limited to:

1. Shuttle buses provided shall hold a minimum of 45 passengers
2. Throughout the contract term, the Expo Center's Parking Manager or designee will schedule buses when it is anticipated that an event or combination of events might lead to Expo's primary parking lots exceeding capacity
3. Upon receiving schedule of requested service the bus or buses (number to be determined ) will arrive at the designated shuttle location at or before the agreed upon time and report to the Expo Parking Manager or his designated representative at which time they will receive any special instruction regarding the events being held and a shuttle bus log which will be completed by the driver and returned to the Parking Manager or designee at the end of the shift
4. Contractor must always supply a minimum of one bus equipped with disabled lift service
5. Shuttle bus driver(s) will wait for instructions from the Manager or designee in charge as to route and actual start time
6. Contractor and its agents will participate in any marketing efforts related to the event or related Expo events
7. All lost and found items shall be turned in to the Expo representative at the end of shift
8. Drivers will give the Expo representative an accurate count of the number of riders for that day before leaving the assignment
9. Drivers will be excused from service by the Expo Parking Manager or designee
10. No scheduled bus service shall be terminated by the bus driver without approval from the designated Expo representative

It is desirable that a Contractor supply fun or quirky modes of shuttle transportation for the event, such as a double-decker bus. While this is not a requirement, all proposers are encouraged to include any such modes of transportation and their related costs in their cost proposal.

### **The Oregon Zoo**

The Oregon Zoo, World Forestry Center, and Children's Museum require shuttle bus and driver services upon request and on schedule between the main parking lot and the auxiliary lots designated for overflow parking service.

Contractor shall provide not less than the following specific services, but not limited to:

1. Schedule and provide buses when needed for weekends, special events, free or discounted days, ZooLights, and concerts as requested by the Zoo's Security Manager or designee. These times will always be weather and /or event dependent.

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2. As scheduled, the bus or buses (maximum 5) will arrive at the Zoo front entrance or designated location at the agreed upon time and report to the Zoo front reception area. Drivers will check in with the Zoo's Security personnel, pick up necessary equipment, receive instruction as to route and actual shuttle start time, and receive a shuttle bus log to complete and return to Zoo Security personnel at the end of the shift. All Zoo property (radios, sign, etc.) will be returned at the end of the shift to Zoo Security personnel or remuneration will be required
3. Supply a minimum of one (1) bus equipped with handicapped service
4. Turn in lost and found items to the Zoo's Security personnel at the end of shift
5. Provide the Zoo with an accurate daily count of the number of passengers at the end of the shift
6. Termination of scheduled bus service shall be at the discretion of the Zoo's Security Manager or designee

### Tentative schedule:

February – October	Saturday / Sunday	10:00 am to 1 hour after closing
March 1 – October 15	Second Tuesday	10:00 am to 1 hour after closing
July – August	Weekdays	10:00 am to 1 hour after closing
July – August	Weekends / Weeknights	4:00 pm to midnight
Late November – Early January	Weekends / weeknights	Varies

### Scheduled Zoo Special Events

- Second Tuesday (Zoo discount day) on the second Tuesday of each month, February through October.
- Summer concerts (two to four per week) on Wednesdays; some Friday, Saturday, and Sunday evenings June 15th through August 31st
- ZooLights for the month of December

## IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

- (1) A minimum of 5 years experience in providing bus services
- (2) Demonstrated fleet and driver capacity to provide the services proposed

## V. PROJECT ADMINISTRATION

Metro's Procurement Services office will administer the resulting contract(s). However, services will be requested as needed by program and parking management staff and designated representatives at the Oregon Zoo, Portland Expo, and other agency departments. . Proposer shall indicate one point of contact and back-up contact for the resulting contract.

## VI. PROPOSAL INSTRUCTIONS

### A. Submission of Sealed Proposals

Two (2) hard copies of the proposal and **one electronic version** shall be furnished to Metro in a sealed envelope, addressed to:

Metro Procurement Services  
Attn: Julie Hoffman RFP 12-2029  
600 NE Grand Avenue  
Portland, OR 97232-2736

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- B. Deadline: Proposals will not be considered if received after the date and time indicated on the RFP cover page.
- C. RFP as Basis for Proposals  
This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Julie Hoffman, julie.hoffman@oregonmetro.gov. Any questions, which in the opinion of Metro, warrant a written reply or RFP addendum will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 3:00 pm on February 6, 2012.
- D. Information Release  
All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro from all claims arising from such activity. In Accordance with Oregon Public Records Law (ORS 192), proposals submitted will be considered part of the public record, except to the extent they are exempted from disclosure.
- E. Minority, Women and Emerging Small Business Program  
In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100, which encourages the use of minority, women and emerging small businesses (MWESB) to the maximum extent practical. Copies of these MWESB requirements are available from the Metro Procurement Office, 600 NE Grand Avenue Portland, OR 97232, 503-797-1648.

### VII. PROPOSAL CONTENTS

The proposal should contain no more than 10 pages of written material (excluding biographies, resumes and brochures, which may be included in an appendix) describing the ability of the contractor to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers, folders, binders or non-recyclable materials should be included in the proposal.

- A. Transmittal Letter: Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days. Also indicate that your firm is capable of completing section III. Proposed Scope of Work/Schedule.
- B. Approach/Project Work Plan: Describe how the work will be done within the given timeframe and budget. Include a proposed work plan and schedule.
- C. Staffing/Project Manager Designation: Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and special qualifications they may bring to the project. Include resumes of individuals proposed for this contract. Discuss the approach to providing qualified staff at the levels and numbers to adequately perform services. Discuss the ability to have adequate back-up staff available should normal or day-to-day staffing personnel not meet the Metro's level of expectation to perform assigned duties due to illness or other absences. Proposer must provide its anticipated response time for supplying qualified back-up personnel.

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- D. Experience: Indicate how your firm meets the experience requirements listed in Section IV of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.
- E. Cost/Budget: Complete and submit Exhibit A, Pricing Matrix with proposal. Proposers may submit proposal pricing on all types of vehicles, a combination of vehicle types or for individual vehicle type.
- F. Diversity in Employment and Contracting:
- Work Force Diversity – Describe your work force demographics (number of employees, race and gender) and the measurable steps taken to ensure a diverse work force, including company policies and practices that promote the hiring and retention of women and ethnic minorities.
  - Diversity in Contracting – Describe your history of working with diverse firms, including any MWESB-certified firms. Describe a project for which you worked with minorities, women or emerging small businesses. Please provide the project name, method used to achieve participation – for example, joint ventures, subcontracts or purchase of equipment or supplies from a certified firm – and the dollar amount or percentage of the project budget expended on such participation.
  - Diversity of Firm – Describe the ownership of your firm and whether or not your firm is certified by the State of Oregon as an MBE, WBE or ESB. Provide certification number, if applicable.
- G. Sustainable Business Practices
- Environment: Describe your business practices to reduce environmental impacts of your operations. This may include energy efficiency, use of non-toxic products, alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.
  - Economy: Describe your support of local businesses and markets within the Portland Metro region. Include what steps your company has taken in the past to support local businesses, and what steps would be taken if selected for this project.
  - Community: Describe the employee compensation structure of your organization. Include wage scales for employees, including trainee, probationary, entry level, journey level, and supervisory. Also include policies regarding annual cost of living adjustments (COLA) to employee wages. Details of the healthcare program (including, medical, dental, prescriptions, preventive care, etc.) as well as out of pocket and deductibles, and employee contributions for themselves and family members. All other employee benefits are to be including, such as vacation, sick leave, pension, disability insurance, profit sharing, childcare, health memberships, company vehicle, public transportation, etc.
- H. Exceptions to Standard Agreement and RFP: Carefully review the Standard Agreement attached hereto as Exhibit B and incorporated herein. This is the standard agreement that successful respondents to this RFP will be required to execute. RFP respondents wishing to propose any exceptions or alternative clauses to the agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their proposal; Metro shall not be required to consider contract revisions proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear.

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### VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award: This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.
- C. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Equal Employment and Nondiscrimination Clause Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see [www.oregonmetro.gov](http://www.oregonmetro.gov).
- F. Intergovernmental Cooperative Agreement Pursuant to ORS 279A and the Metro public contract code, Metro participates in an Intergovernmental Cooperative Purchasing program by which other public agencies shall have the ability to purchase the goods and services under the terms and conditions of this awarded contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to Metro under this agreement. Any estimated purchase volumes listed herein do not include volumes for other public agencies, and Metro makes no guarantee as to their participation in any purchase. Any proposer may decline to extend the prices and terms of this solicitation to any or all other public agencies upon execution of this contract. Unless the proposer specifically declines to participate in the program by indicating this in their transmittal letter, the proposer agrees to participate in the Intergovernmental Cooperative Purchasing program.

### IX. EVALUATION OF PROPOSALS

- A. Evaluation Procedure: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of firm(s). Award will be made to the highest ranked Proposer

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according to the evaluation criteria. If contract negotiations are unsuccessful with the highest ranked firm, Metro reserves the right to enter into negotiations with the next highest ranked Proposer.

- B. Evaluation Criteria: This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

	Percentage of Total Score
Firm Experience/Capacity/Qualifications	20
1. Experience providing similar services	
2. Qualifications and capacity to provide required services	
Project Staffing Experience/Availability	25
1. Experience of proposer and staff	
2. Availability to provide required services	
Budget/Cost Proposal	35
1. Reasonableness of rates and fees	
2. Anticipated financial impact to Metro	
Diversity	10
1. Work Force Diversity	
2. Diversity in Contracting	
3. Diversity of Firm	
Sustainable Business Practices	10
1. Environmental Impact	
2. Support of local business and markets	
3. Employee compensation structure	
	100%

## X. APPEAL OF CONTRACT AWARD

Aggrieved proposers who wish to appeal the award of this contract must do so in writing within seven (7) days of issuance of the notice of intent to award by Metro. Appeals must be submitted to Darin Matthews, Procurement Officer, 600 NE Grand, Portland, Oregon 97232 and must state the specific deviation of rule or statute in the contract award. Metro will issue a written response to the appeal in a timely manner.

## XI. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT

The attached agreement included herein reflects preliminary, draft contract language and selected, proposed contract terms for this procurement. Proposers should be aware that such language terms and provisions are for illustrative purposes only and that Metro reserves the right, following submission and ranking of all proposals submitted in response to this procurement, to amend, modify or negotiate over any and all such contract language, terms and provisions before making a final determination regarding the issuance of the Notice of Intent to Award the agreement rising from this procurement. By submitting a proposal in response to this procurement, proposers acknowledge that they are aware of and do not object to any later, potential amendment and modification of such preliminary, draft language and terms. In addition, by responding to this procurement, proposers acknowledge that they are aware of their ability to offer alternatives to any of the preliminary, draft contract language and proposed contract terms set forth herein.

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## PRICING MATRIX

Proposers may submit pricing on all types of vehicle, a combination of vehicle types or for individual vehicle type.

Description	Fleet Capacity	Billable Rate	Estimate	Total Cost Billable Rate X Estimate
15 Passenger		\$ _____ per hour	500 hours	\$ _____
School Bus		\$ _____ per hour	1,500 hours	\$ _____
Coach		\$ _____ per hour	500 hours	\$ _____
Other Vehicle (double-decker, eg) (indicate type)		\$ _____ per hour	100 hours	\$ _____
Standby Charge		\$ _____ per hour	600 hours	\$ _____
Cancellation Charge		\$ _____ per bus	35 incidents	\$ _____
Other Charges (Identify):		\$ _____ per ____		\$ _____
<b>Total Proposal Cost</b>				\$ _____

Indicate below any discounts your firm provides levels based on multiple trips etc.

Indicate below the calculation for annual price increases after the first two years of the contract:

Print Name of Company \_\_\_\_\_

Print Name of Proposer \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

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**For Public Contracts \$50,000 & Up**

METRO CONTRACT NO. XXXXXX

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232-2736, and Company Name, whose address is address, City, State Zip, hereinafter referred to as the "CONTRACTOR."

## THE PARTIES AGREE AS FOLLOWS:

**ARTICLE I  
SCOPE OF WORK**

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

**ARTICLE II  
TERM OF CONTRACT**

The term of this Contract shall be for the period commencing Month XX, 201X through and including Month XX, 201X. IF CONTRACT IS SUBJECT TO RENEWAL OR EXTENSION, INCLUDE SUCH LANGUAGE i.e. This agreement may be renewed or extended for XX additional one-year periods at Metro's sole discretion.

**ARTICLE III  
CONTRACT SUM AND TERMS OF PAYMENT**

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work. Payment shall be made by METRO on a Net 30 day basis upon approval of CONTRACTOR invoice.

**ARTICLE IV  
LIABILITY AND INDEMNITY**

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR'S labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR'S subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

**ARTICLE V  
TERMINATION**

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect, consequential damages or any other damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

**ARTICLE VI  
INSURANCE & BONDS**

CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense, the following types of insurance, covering the CONTRACTOR, its employees, and agents:

- A. The most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, contractual liability, premises and products/completed operations. CONTRACTOR'S coverage will be primary as respects Metro;

## Exhibit B, Sample Contract

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- B. Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000 per occurrence;
- C. Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$500,000 per accident or disease; and
- D. If required by the Scope of Work, Professional Liability Insurance, with limits of not less than \$1,000,000 per occurrence, covering personal injury and property damage arising from errors, omissions or malpractice.

METRO, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS on Commercial General Liability and Automobile policies.

CONTRACTOR shall provide to Metro 30 days notice of any material change or policy cancellation.

CONTRACTOR shall provide Metro with a Certificate of Insurance complying with this article upon return of the CONTRACTOR signed agreement to Metro.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

In addition, for public works subject to ORS 279C.800 to 279C.870, CONTRACTOR and every subcontractor shall have a public works bond required by 2005 Oregon Laws Chapter 360 filed with the Construction Contractors Board before starting work on the project, unless exempt under Section 2 of 2005 Oregon Laws Chapter 360.

#### ARTICLE VII PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279A, 279B, and 279C and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement. Specifically, it is a condition of this contract that CONTRACTOR and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

For public work subject to ORS 279C.800 to 279C.870, the CONTRACTOR shall pay prevailing wages. If such public work is subject both to ORS 279C.800 to 279C.870 and to 40 U.S.C. 276a, the CONTRACTOR and every subcontractor on such public work shall pay at least the higher prevailing wage. The CONTRACTOR and each subcontractor shall pay workers not less than the specified minimum hourly rate of wage in accordance with Section 7 of 2005 Oregon Laws Chapter 360. METRO shall pay an administrative fee as provided in ORS 279C.825(1) to the Bureau of Labor and Industries pursuant to the administrative rules established by the Commissioner of Labor and Industries. CONTRACTORS must promptly pay, as due, all persons supplying to such contractor labor or material used in this contract. If the CONTRACTOR or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the CONTRACTOR or first-tier subcontractor shall owe the person the amount due plus shall pay interest in accordance with ORS 279C.515. If the CONTRACTOR or first-tier subcontractor fails, neglects, or refuses to make payment, to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. CONTRACTOR must pay any and all contributions and amounts due to the Industrial Accident Fund from contractor or subcontractor and incurred in the performance of the contract. No liens or claims are permitted to be filed against Metro on account of any labor or material furnished. CONTRACTORS are required to pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

For public improvement work all CONTRACTORS must demonstrate that an employee drug-testing program is in place.

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## ARTICLE VIII ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

## ARTICLE IX QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

## ARTICLE X OWNERSHIP OF DOCUMENTS

Unless otherwise provided herein, all documents, instruments and media of any nature produced by CONTRACTOR pursuant to this agreement are Work Products and are the property of METRO, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon METRO request, CONTRACTOR shall promptly provide METRO with an electronic version of all Work Products that have been produced or recorded in electronic media. METRO and CONTRACTOR agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such Work Products.

- A. CONTRACTOR and subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, CONTRACTOR and subcontractors shall maintain any other records necessary to clearly document:
1. The performance of the CONTRACTOR, including but not limited to the contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the CONTRACTOR or subcontractor under the terms of the contract or subcontract;
  2. Any claims arising from or relating to the performance of the CONTRACTOR or subcontractor under a public contract;
  3. Any cost and pricing data relating to the contract; and
  4. Payments made to all suppliers and subcontractors.
- B. CONTRACTOR and subcontractors shall maintain records for the longer period of (a.) six years from the date of final completion of the contract to which the records relate or (b.) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.
- C. CONTRACTOR and subcontractors shall make records available to METRO, and its authorized representatives, including but not limited to the staff of any METRO department and the staff of the METRO Auditor, within the boundaries of the METRO region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of METRO, the CONTRACTOR or subcontractor agrees to bear all of the costs for METRO employees, and any necessary consultants hired by METRO, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the CONTRACTOR elects to have such records outside these boundaries, the costs paid by the CONTRACTOR to METRO for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.

- D. CONTRACTOR and subcontractors authorize and permit METRO and its authorized representatives, including but not limited to the staff of any METRO department and the staff of the METRO Auditor, to inspect, examine, copy and

## Exhibit B, Sample Contract

**Request for Proposals (RFP 12-2029)**

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audit the books and records of CONTRACTOR or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. METRO shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of section E.

E. CONTRACTOR and subcontractors agree to disclose the records requested by METRO and agree to the admission of such records as evidence in any proceeding between METRO and the CONTRACTOR or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

F. CONTRACTOR and subcontractors agree that in the event such records disclose that METRO is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the CONTRACTOR or subcontractor shall pay all costs incurred by METRO in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from METRO.

G. Failure of the CONTRACTOR or subcontractor to keep or disclose records as required by this document or any solicitation document may result in disqualification as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the CONTRACTOR or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.

**ARTICLE XI  
SUBCONTRACTORS**

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR'S compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

**ARTICLE XII  
RIGHT TO WITHHOLD PAYMENTS**

METRO shall have the right to withhold from payments due CONTRACTOR such sums as necessary, in METRO's sole opinion, to protect METRO against any loss, damage or claim which may result from CONTRACTOR'S performance or failure to perform under this agreement or the failure of CONTRACTOR to make proper payment to any suppliers or subcontractors. In addition for public improvement work, if a CONTRACTOR is required to file certified statements under ORS 279C.845, METRO shall retain 25 percent of any amount earned by the CONTRACTOR on the public works until the contractor has filed all required certified statements with METRO.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

**ARTICLE XIII  
SAFETY**

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

**ARTICLE XIV  
INTEGRATION OF CONTRACT DOCUMENTS**



600 NE Grand Ave.  
Portland, OR 97232-2736  
503-797-1700

Exhibit B, Sample Contract

# Request for Proposals (RFP 12-2029)

All of the provisions of any procurement documents including, but not limited to, the Advertisement for Bids, Proposals or responses, General and Special Instructions to Bidders, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The laws of the state of Oregon shall govern the construction and interpretation of this Contract.

### ARTICLE XV COMPLIANCE

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

### ARTICLE XVI INTERGOVERNMENTAL COOPERATIVE AGREEMENT

Pursuant to ORS 279A and the Metro public contract code, Metro participates in an Intergovernmental Cooperative Purchasing program by which other public agencies shall have the ability to purchase the goods and services under the terms and conditions of this awarded contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to Metro under this agreement. Any estimated purchase volumes listed herein do not include volumes for other public agencies, and Metro makes no guarantee as to their participation in any purchase. Any Contractor may decline to extend the prices and terms of this solicitation to any or all other public agencies upon execution of this contract. Unless the Contractor specifically declines to participate in the program by marking the box below, the Contractor agrees to participate in the Intergovernmental Cooperative Purchasing program.  **Contractor declines to participate in Intergovernmental Cooperative Purchasing or is not applicable to this Contract.**

### ARTICLE XVII ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

CONTRACTOR

METRO

By \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_